these pretenders, it is believed that every honest lawyer would make it his business to investigate suspicious cases coming within his notice, and a carefully formulated system of registration seems to furnish him with the necessary assistance in accomplishing this purpose.

The hearty support accorded this plan by the profession in New York is but further evidence of a progessive spirit which might well be emulated in other jurisdictions. Medical practitioners, looking to their own welfare and to the protection of the public, have already provided a registry system; but the legal profession, similarly, would not only add to its own dignity, but increase its usefulness to society, by securing the adoption of some such plan as that outlined in the New York measure, and by rigidly enforcing its requirements in letter and spirit.

CHARGING THE JURY. — The numerous comments made in newspapers and legal periodicals upon the charge to the jury in the trial of the Bram murder case, and upon the opinion of the court on refusing a new trial, bring into notice the marked difference in practice between the Federal courts and most State courts with respect to the judge's commenting upon the evidence in the charge. There can be little doubt that the charge in this case was entirely unexceptionable, according to the rule laid down in the Federal courts. Following the established English rule, the Supreme Court of the United States has often held that it is proper for the judge, and sometimes even incumbent upon him, to express in his charge to the jury his own opinion of the weight of the evidence that has been offered, and of the facts which he considers it to prove, provided always that he clearly instructs the jury that the determination of all questions of fact is left to their own independent judgment. In almost all State jurisdictions on the other hand, an increasing jealousy of the possible influence of the judge upon the jury's verdict has by various means made any expression of opinion by the judge upon questions of fact a ground for exceptions. In several States, such as Arkansas, California, Nevada, South Carolina, Tennessee, and Washington, any comment upon the evidence by judges in charging a jury, is prohibited by the State Constitution. In very many other States, of which Massachusetts is one, the same result is reached by a statute. To allow exceptions upon such grounds, in the absence of any statutory provision, would seem to be an unwarrantable departure from the old common law view, which was that it was the duty of the judge to assist the jury in the determination of matters of fact by his advice, founded on his extensive experience and his superior training in habits of logical thought. How positive and urgent such advice may be, when the jury are at the same time instructed that the final decision is left entirely to their judgment is a question which must always depend to some extent on the temper of the courts, and of the community in which they administer justice; and accordingly even the Federal courts are more inclined to restrict the action of judges in this respect than are the English courts. The effect of the statutes referred to is to prevent the court from in any way aiding the jury in the determination of matters of fact, and to render it extremely difficult for a judge to sum up the evidence without laying his charge open to exceptions. It is certainly the opinion of many lawyers that juries are more apt to go wrong in their verdicts under this rule of practice than under the rule of the Federal and of the English

courts. It would perhaps be well for those who are anxious for the preservation of the jury system, at a time when much dissatisfaction is felt with its practical operation, to consider whether the danger of judges influencing juries to give unjust verdicts is so serious as to make it advisable to diminish the practical efficiency of jury trials by preventing the judge from giving the jury the benefit of his generally superior powers of reasoning and wide experience in the facts of cases.

LIBEL AND CRITICISM. — A scientific man has written a book in which he attempts to disprove the existence of the force of gravity. A scientific newspaper, in reviewing the book, attempted to show by way of criticism that the author does not know enough to be able to appreciate the force of the argument by which the law of gravitation is proved. The author says that this is a false and malicious libel, and that it has damaged him to the extent of thousands of dollars.

Criticism in good faith of an author's work is allowed almost without restriction; but the law guards the private individual as distinguished from the man in his public capacity. It does not permit the critic to go behind the book to attack the author as a private person. On these principles Mr. Ruskin, in speaking of Mr. Whistler's paintings, was able with impunity to charge the artist with the "cockney impudence" of asking two hundred guineas for "flinging a pot of paint in the public's face." But when he accused him of "wilful imposture," he overstepped the mark, and had to pay a farthing in damages. In the present case, the question is whether the imputation of ignorance has a legitimate bearing as criticism upon the book. If the imputation of ignorance is made as an inference from the book itself, it seems to have a clear connection with the credit to which the book is entitled. It is true that in an English case, *Dunne* v. *Anderson*, 3 Bing. 88, it was held to be libel for one, in criticising a petition to Parliament by a physician, to reflect upon the physician's knowledge of chemistry. But that case is to be distinguished from the present one, in that in presenting the petition the physician is not so distinctly before the public as the author in publishing a book. As Lord Cockburn says in *Strauss* v. *Francis*, 4 F. & F. 1114, "a man who publishes a book challenges criticism." The critic is strictly accountable for any damaging misstatement of fact; but here there is no such misstatement. If there were nothing in the book which might lead a reasonable man in the critic's position to take the same view, it might be held that this was not fair criticism. But the force of gravity is well enough established for the courts to take judicial cognizance of it; and they are hardly likely to hold that this statement, if made merely as a deduction from the author's treatment of his subject, was so unfounded as to be a libel, rather than a fair though strong criticism.

CONFLICT OF LAWS — PENAL STATUTES. — The extent to which courts will recognize rights acquired under foreign statutes is still more or less indeterminate. A few general propositions, to be sure, such as that penal statutes will not be enforced, are well established. But their application to concrete cases has proved by no means an easy task. Thus the familiar statutory action for the negligent causing of death has troubled the courts not a little. In the late case of *Dale* v. *R. R. Co.*, 47 Pac. Rep.